

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Re: Biennial Review 2008, PS Docket No. 08-181, Parts 10 and 11

Dear Ms. Dortch:

In the matter of the Biennial Review 2008, PS Docket No. 08-181, the FEMA Office of National Continuity Programs (NCP) and Integrated Public Alert and Warning System (IPAWS) Program Management Office (PMO) respectfully submit these comments regarding Part 10, concerning the Commercial Mobile Alert System and In the Matter of The Commercial Mobile Alert System, Third Report and Order, issued August 7, 2008, FCC 08-184, and Part 11, concerning the Emergency Alert System (EAS).

PART 10 – COMMERCIAL MOBILE ALERT SYSTEM

Background on Election Procedures. Some commenters suggest that the Commission maintain a register listing the carriers that elect to participate as well as those that do not.¹

Discussion. FEMA's mission is to maintain the capability to reach at least 90 percent of the American population over multiple media in multiple languages and formats including for the special needs community. FEMA would find it extremely useful to know who among the largest cellular carriers did elect to distribute the alerts and warnings, so that FEMA could estimate how much of the population will be covered by the collective cellular footprint of all those carriers that opted in.

Background on Cost Recovery. The FCC has found that the language of the WARN Act does not prevent CMAS participants from recovering the costs of the service.² Further, it finds that permitting recoverable costs associated with the provision of the CMAS alerts is consistent with the voluntary nature of the CMAS, and with the FCC's general policy to encourage participation in the CMAS.

Discussion. FEMA believes that all Americans deserve fair warning of a disaster that could threaten their life or property. FEMA is working with several federal partners and industry members to upgrade the national alert and warning system to be able to distribute alert and warning messages to a wide range of consumer devices, including mobile phones, computers, pagers, satellite TV and others. Leaving aside the Third Report and Order's *voluntary* nature of service providers' participation in an alert program via cellular, a service to which 262.7 million people, or 84 percent of the American population subscribe,³ FEMA agrees with Wireless RERC that the

¹ Paragraph 31.

² Paragraph 45.

³ [www.CTIA.org](http://www.ctia.org) "Wireless Quick Facts" <http://www.ctia.org/advocacy/research/index.cfm/AID/10323>

“Commission should review its mobile service regulations to implement any incentives that might offset CMS expenses and encourage CMA providers to participate in CMAS”.⁴

Background on CMAS Deployment Timeline. Paragraphs 47-54 in the Report and Order describe a process leading up to the issuance of the Order, including discussing the recommendations made by the CMSAAC regarding sequencing of events and expected time frames.

Discussion. FEMA would like to make several general comments on the deployment timeline mentioned in the Third Report and Order:

The deployment of the CMAS interface and the Alert/Aggregator system is being managed by FEMA under an established program and in consultation with Congress, industry, and federal partners, plus standards organizations, non-profit organizations, and state and local emergency authorities. We appreciate that the FCC recognizes that the manager of the Alert Aggregator/Gateway ‘must be a centralized, federal entity’.⁵ We believe it takes a centralized entity to manage the many stakeholders and players in this project as well as an organization that has a national level view on alerts and warnings. We note that much of the CMSAAC time line and FCC proposed requirements are based on unconfirmed assumptions about FEMA’s activities and progress. The FCC also acknowledges that there are many factors beyond the control of the CMA providers that could effect the deployment and availability of CMAS, including manufacturers’ development cycles, and mobile device manufactures’ inclusion of the required CMAS functionality. We look forward to working with the FCC to elaborate a deployment plan that recognizes the realities of the many stakeholders involved.

FEMA has heard many industry representatives express frustration in recent months at having to navigate parallel project schedules between the two agencies. It is our hope that we can avoid an ‘emergency meeting’ on December 31, 2008 of the CMSAAC members, an event we understand the members would prefer to defer.

Authority to Send A CMAS Message

Although not included in the FCC’s Third Report and Order or in the new Part 10 regulations, FEMA would like the FCC to consider establishing some method of designating and verifying the authority for who can send a CMAS message. One approach would be for the States to update their EAS plans to include clear designation of who is authorized within a State to initiate a CMAS message. If necessary, a separate set of State plans could be created and managed by the FCC. Such plans could be useful in informing the Federal Alert Aggregator exactly who is authorized to send a CMAS message in a particular jurisdiction. In the absence of a State designation plan, FEMA may find itself in the position of managing and tracking thousands of individual partnership agreements among various jurisdictions.

⁴ FCC 08-184 para 44. p19.

⁵ *Ibid* Paragraph 52.

FEMA COMMENTS REGARDING PART 11 – EMERGENCY ALERT SYSTEM

Background on FEMA, FCC and Common Alerting Protocol (CAP). As the Nation's primary emergency response agency, FEMA serves as the White House's Advisory Agent for nationwide systems including the national-level EAS and as Program Manager for the IPAWS, among other Contingency Programs and systems. In this role, FEMA is charged with managing complex communications systems involving multiple layers of coordination at the local, tribal, state, and Federal levels to improve the Nation's alert and warning capabilities to the public.

Executive Order 13047 directs that the public alert and warning system has the capability to alert and warn all Americans, including people with disabilities and people who do not understand English. In support of this goal, the Executive Order directs that common alerting protocols and standards be developed by coordinating with other agencies and departments of the Federal Government. FEMA NCP and IPAWS PMO acknowledge and support the framework established by FCC in its 2nd Report and Order on EAS, EB Docket No. 04-296.

Discussion. FCC's 2nd Report and Order on EAS, issued in July 2007, outlines requirements for the next generation of EAS. A key requirement is that the next generation of EAS supports CAP to provide interoperability among vendor equipment and between public alert and warning systems. FEMA announced its intention on July 30, 2008 to adopt an alerting profile compliant with Common Alerting Protocol (CAP) 1.1 as the standard for IPAWS during the first quarter of calendar year 2009.

Under current FCC rules, broadcasters, emergency management personnel, and other participants in the EAS will be required to be in compliance with CAP 1.1 standard within 180 days of its formal adoption by FEMA. In order to ensure the interoperability required to "increase the reliability, security, and efficacy of the nation's EAS network and enable the President, the National Weather Service (NWS), and state officials to rapidly communicate with citizens in times of crisis, over multiple communications platforms,"⁶ FEMA NCP and the IPAWS PMO respectfully request that FCC modify language of Section 11.37 to allow participants in the EAS twenty-four (24) months to be in compliance from the date of FEMA's formal adoption of CAP 1.1.

Arriving at standards and protocols that work for all stakeholders – the Federal operator, other federal agencies, vendors, service providers, state emergency managers, and the public – is a complex and time-intensive task. The vendor community cannot begin manufacturing of encoders/decoders (Endec) until the CAP profile is published.⁷ 180 days will not allow enough time for vendors to manufacture CAP-compliant Endecs, including completion of the conformity assessment process currently being developed by FEMA. Part of the efforts of the IPAWS program will be to create an IPAWS CAP Profile that will define the specific IPAWS program requirements to vendors. The

⁶ FCC's 2nd Report & Order on the EAS, EB Docket No. 04-296

⁷ Insert footnote defining what the CAP profile is.

IPAWS program will also establish a Conformity Assessment Program for all vendors seeking connectivity to the IPAWS backbone. The Conformity Assessment Program is a validating component of the program that will ensure the nation's system for issuing alerts and warnings to the public has a high and consistent degree of system integrity and reliability.

The purchase of Endec equipment represents a significant expense to broadcasters, state & local emergency management personnel and other EAS participants. FEMA requests FCC modify Sections 11.32 - 33 to provide grants to EAS participants supporting costs associated with purchase of Endecs and related upgrades of equipment.

Finally, FEMA requests that FCC promulgate rules requiring all encoders and receivers be enabled with functionality to participate in National Periodic Tests of the EAS.

CLOSING

We look forward to working with our Federal partners, industry, and the American public on this matter, and we resolve to act judiciously on their behalf. If you have any questions, please contact Mr. Lance Craver, Director at 202-646-7932 at the IPAWS Program Office Division.

We thank you for your cooperation in helping FEMA enhance the national alert and warning system for the American public.

Sincerely,



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